

Remarks/Arguments

Reconsideration of the above-identified application in view of the present amendment is respectfully requested.

The Specification and Abstract have been objected to. The Specification and Abstract have been amended to overcome these objections.

Claims 1-13 have been rejected as anticipated by Klaue, US 4,705,027. Anticipation requires a single prior art reference that discloses each element of the claim. W.L. Gore & Associates v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983) *cert. denied* 469 U.S. 851 (1984). For a reference to anticipate a claim, "[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." Scripps Clinic & Research Foundation v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ.2d 1001, 1010 (Fed. Cir. 1991).

Claim 1 recites a snap-in device (11) which is designed to be threaded onto the locking means (9) and thereby opened by the locking means (9) and to be snapped-in again to a closed condition when the locking means (9) is located in the transverse hole (10) in the front parts (5b) of the medullary nail (5) such that the snap-in device (11) retains the medullary nail (5) at the locking means (9). Klaue does not disclose a snap-in device. The Office Action refers to Fig. 23 of Klaue for this limitation. Neither Fig. 23 nor the description of Fig. 23 at Col. 4, lines 29-31 indicate a snap-in device. Thus, the device recited by claim 1 and the nail of Klaue are clearly different. Thus, claim 1 is allowable.

Claims 2-13 which depend from claim 1, are allowable for the specific recitations therein and for the same reasons as claim 1.


Furthermore, claim 6 recites that the snap-in device (11) has two jaws (12, 13) defining a gap (14) of which inner parts (14a) are open towards the transverse hole (10) in the front parts (5b) of the medullary nail (5). The inner parts (14a) of the gap (14) have a less width than the diameter of the transverse hole (10) and a less width than the width or diameter of the locking means (9). The jaws (12, 13) are elastic such that the locking means (9) brings the jaws to spring apart when the snap-in device (11) is threaded onto the locking means. The jaws (12, 13) due to their elasticity can spring back to their original positions when the snap-in device (11) has been threaded so far onto the locking means (9) that said locking means (9) is situated in the transverse hole (10), whereby the snap-in device (11) retains the medullary nail (5) on the locking means (9).

Klaue does not describe or suggest a snap-in device (11) having two jaws (12, 13) that are elastic such that a locking means (9) brings the jaws to spring apart when the snap-in device (11) is threaded onto the locking means. Also, Klaue does not describe or suggest jaws (12, 13) due to their elasticity springing back to their original positions when a snap-in device (11) has been threaded so far onto a locking means (9) that the locking means (9) is situated in a transverse hole (10). Therefore claim 6 is also allowable.

Allowance of the above-referenced patent application is respectfully requested.

Please charge any deficiency or credit any overpayment in the fees for this matter to our Deposit Account No. 20-0090.

Respectfully submitted,



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